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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 JERRY DEAN PETERSEN,

11 Petitioner,

12 v.

13 JOHN FLOOD,

14 Respondent.

CASE NO. C24-0206JLR

ORDER

15 **I. INTRODUCTION**

16 Before the court is United States Magistrate Judge Theresa L. Fricke's report and
17 recommendation, in which she recommends that the court dismiss Petitioner Jerry Dean
18 Petersen's 28 U.S.C. § 2241 petition for writ of habeas corpus without prejudice. (R&R
19 (Dkt. # 18); *see also* Petition (Dkt. # 10).) Neither Mr. Petersen nor Respondent John
20 Flood filed objections to the report and recommendation before the November 6, 2024
21 deadline. (*See id.* at 4-5 (setting deadline); *see generally* Dkt.) Having reviewed the
22 report and recommendation, the parties' submissions, the relevant portions of the record,

1 and the governing law, court ADOPTS Magistrate Judge Fricke's report and
2 recommendation, DISMISSES Mr. Petersen's petition for writ of habeas corpus, and
3 DENIES a certificate of appealability.

4 II. ANALYSIS

5 A district court has jurisdiction to review a magistrate judge's report and
6 recommendation on dispositive matters. Fed. R. Civ. P. 72(b). "A judge of the court
7 may accept, reject, or modify, in whole or in part, the findings or recommendations made
8 by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "The statute makes it clear that the
9 district judge must review the magistrate judge's findings and recommendations de novo
10 *if objection is made*, but not otherwise." *United States v. Reyna-Tapia*, 328 F.3d 1114,
11 1121 (9th Cir. 2003) (en banc).

12 Magistrate Judge Fricke recommends that the court abstain from deciding the
13 petition under *Younger v. Harris*, 401 U.S. 37 (1971), because (1) Mr. Petersen faces an
14 ongoing state criminal prosecution which clearly implicates important state interests;
15 (2) Mr. Petersen can raise constitutional challenges by filing motions in state court; and
16 (3) the requested habeas relief would undermine the state court's determinations
17 regarding Mr. Petersen's criminal case. (R&R at 2-3.) Mr. Petersen has not objected to
18 that recommendation. (*See generally* Dkt.) The court has thoroughly examined the
19 record before it and finds Magistrate Judge Fricke's reasoning persuasive in light of that
20 record. The court has also independently reviewed Mr. Petersen's petition and agrees
21 with the reasoning and conclusions set forth in the report and recommendation.
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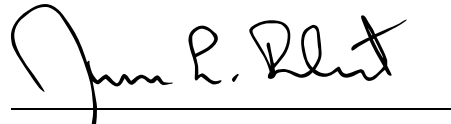
1 Accordingly, the court ADOPTS the report and recommendation, DISMISSES Mr.
2 Petersen's habeas corpus petition, and DENIES a certificate of appealability.

3 **III. CONCLUSION**

4 For the foregoing reasons, the court ORDERS as follows:

- 5 1. The court ADOPTS the report and recommendation (Dkt. # 18) in its entirety;
6 2. The court DISMISSES Mr. Petersen's habeas corpus petition (Dkt. # 10)
7 without prejudice;
8 3. The court DENIES issuance of a certificate of appealability for the reasons set
9 forth in the report and recommendation; and
10 4. The court DIRECTS the Clerk to send copies of this order to Mr. Petersen, Mr.
11 Flood, and Magistrate Judge Fricke.

12 Dated this 11th day of November, 2024.

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15 JAMES L. ROBART
16 United States District Judge
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